Supreme Court, U.S.
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No. 97-273

In The

Supreme Court of the United States

October Term, 1996

OXXFORD CLOTHES XX, INC.,

Petitioner,

v.

EXXON CORPORATION,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Does Exxon lose trademark protection of its well-known and federally registered trademarks simply because it stopped third parties from using similar marks by entering into settlement agreements that did not provide for quality control of the third parties' products during the phase out period of the settlements.

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BRIEF IN OPPOSITION

The respondent, Exxon Corporation (hereafter "Exxon"), respectfully requests that this Court deny the petition for writ of certiorari in this case. The opinion of the Fifth Circuit is reported at *Exxon Corp. v. Oxxford Clothes XX, Inc.*, 109 F.3d 1070 (5th Cir. 1997).

STATEMENT OF THE CASE

Petitioner's[1] statement of the case needs to be corrected in several respects.

Since 1986, Exxon has had registered as a trademark a stylized, stand-alone interlocking "X" symbol (the "Interlocking X Design"). Although petitioner asserts that "[i]t began using its double XX's in 1946" (Pet. at 3), it was only in 1993 that it began using a stand-alone interlocking X design "virtually identical to that long previously registered by Exxon." (App. A at 3a.)[2] When Oxxford refused to cease the use of the interlocking X design following Exxon's protest, Exxon brought the present action.

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[1] "Petitioner" is sometimes used in this Response to refer collectively to Oxxford Clothes, Inc. and Oxxford Clothes XX, Inc., which acquired the assets of Oxxford Clothes, Inc., although only Oxxford Clothes XX, Inc. has petitioned for certiorari.

[2] The petition for writ of certiorari in this case is referred to as "Pet. at ___." References to the Fifth Circuit's opinion, which is Appendix A to the Petition, are referred to as "App. A at ___." References to the district court's opinion, which is Appendix B to the Petition, are referred to as "App. B at ___."

Oxxford asserted a "naked licensing" affirmative defense alleging that Exxon had entered into naked licenses of its trademarks and thereby abandoned its Interlocking X Design and other trademarks, which incorporate the Interlocking X Design. The "agreements" at the heart of petitioner's naked licensing defense were actually settlement agreements which required alleged infringers to stop using marks challenged by Exxon. (R. at 472-417.)[3] The third parties were allowed time to use up their existing business supplies and to make the transition to new marks. *None* of the agreements relied upon by petitioner licensed or in any way granted the third parties the rights to use *any* of Exxon's trademarks. The district court held, *inter alia*, that these agreements to stop the alleged infringers use of their marks were not licenses. (R. at 1709-04.) In its opinion the Fifth Circuit noted that many agreements related to the use of a trademark are not licenses, but assumed *arguendo only* that the agreements here were licenses "in a technical sense." (App. A at 14a.) The Fifth Circuit was unconcerned with whether the agreements were truly licenses because that question was merely a "prelude to the ultimate question" being addressed: "whether the summary judgment evidence adduced would be adequate to support a finding that Exxon's course of action resulted in abandonment of its trademarks." (App. A at 15a.)

Although Oxxford argued that a loss of trademark significance should be presumed from the settlement

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[3] References to the district court record are abbreviated "R. ___."

agreements, the Fifth Circuit refused to "judicially manufacture a presumption of loss of trademark significance *under the facts of this case* given that had Exxon simply ignored the prior threats to its marks no such presumption would obtain." (App. A at 22a (emphasis added).) Had the Fifth Circuit followed petitioner's reasoning, it would have reached the patently absurd conclusion that by engaging in a diligent effort to *protect* its trademarks from dilution and infringement, Exxon abandoned its marks. Of course, there is no authority to support such a counterintuitive result. Thus, the Fifth Circuit affirmed the district court because Oxxford had failed to provide evidence that would "allow a reasonable factfinder to conclude that Exxon has abandoned its marks." (App. A at 23a.)

REASONS THE PETITION SHOULD BE DENIED

I. There Is No Reason to Grant the Petition.

There are no "special" or "important" reasons why a writ of certiorari should be granted in this case, and the Court should decline review. *See* Sup. Ct. R. 10. Contrary to petitioner's assertions, the Fifth Circuit has not announced a fundamental change in trademark law, nor has it eviscerated the affirmative defense of naked licensing. Rather, it properly held that on the facts of this case, Oxxford had not shown that Exxon's marks had lost their significance as marks, and that such a loss would not be presumed. It is improper for petitioner to tout this case as an opportunity for this Court to take up the issue of

naked licensing; as is explained below, this is not a traditional naked licensing case. Thus, no important issue exists in this case for the Court to decide – the language of 15 U.S.C. § 1127(2) (1994) is clear and was correctly applied to the facts of this case by the Fifth Circuit. This Court's review is not warranted.

II. The Fifth Circuit Correctly Applied the Law to the Facts of this Case.

A. This Case is not a "Naked Licensing" Case.

Petitioner goes to great lengths to obscure the facts of this case because, in actuality, the facts of this case distinguish it from true "naked licensing" cases. Although petitioner asserted a naked licensing defense, this is not a naked licensing case.

> The generally accepted meaning of "uncontrolled licensing" is where *a trademark owner has licensed someone else to make or manufacture its products* and then fails to control the quality of the products made by the licensee, thus permitting a deception of the public.

Heaton Distrib. Co. v. Union Tank Car Co., 387 F.2d 477, 485 (8th Cir. 1967) (emphasis added).[4] Here, Exxon did not

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[4] Even petitioner grants this point when it defines naked licensing: "any mark holder who licenses *his mark* without controlling the quality engages in bare or naked licensing; and because this works to the detriment of the public, the mark owner is deemed to have abandoned *his mark*." (Pet. at 7 (italics added).)

license someone else to make or manufacture its products, nor did it in any way license the use of *its* marks. Instead, Exxon required third parties to stop using the marks that Exxon alleged were infringing or diluting. This case therefore differs fundamentally on its facts from all other traditional "naked licensing" cases, as the Fifth Circuit observed:

> First, the agreements in these [naked licensing] cases expressly granted use of the protected mark, while Exxon's phase out agreements concern marks that are merely (allegedly) similar to its registered marks and do not involve an attempt by Exxon to exploit its mark for purposes of pecuniary gain. Second, none of these cases discuss agreements entered into for the purpose of permanently terminating the putative licensee's offending use of the subject mark, and coordinately none of the agreements discussed in these cases fix a termination date for the licensee's use of the mark. . . . [T]he second point is perhaps more appropriately considered in resolving the ultimate question of whether Exxon's actions, however denominated, led to an abandonment of its rights in its mark(s).

(App. A at 14a-15a n. 9.)

Because Oxxford moved for summary judgment on its naked licensing defense, the Fifth Circuit analyzed Oxxford's claim under the rubric of naked licensing. However, the Fifth Circuit was very careful to limit its holding to the facts of this case. As a result, the Fifth Circuit's decision will not trigger the trademark Armageddon envisioned by the Petition; rather, the holding in

this case will rightly be interpreted as the correct application of the law to these facts. As such, this case does not occasion the Court's review. Nor did the Fifth Circuit depart from the "accepted and usual course of judicial proceedings" so as to warrant exercise of this Court's supervisory power. Sup. Ct. R. 10(a).

Petitioner asked the Fifth Circuit and now asks this Court to declare Exxon's marks abandoned through "naked licensing" because of agreements which dealt not with Exxon's marks, but with the allegedly infringing marks of third parties. There was and is no authority for a presumption of abandonment in these circumstances, and the Fifth Circuit rightly refused to "judicially manufacture" such authority. (App. A at 22a.) As is discussed further below, the Fifth Circuit did not depart from well-settled law, but rather correctly applied the Lanham Act to the facts of this case.

B. The Fifth Circuit's Decision Followed the Lanham Act.

As this Court has observed, "[t]he starting point in every case involving construction of a statute is the language itself." *Watt v. Alaska*, 451 U.S. 259, 265 (1981). In affirming the district court, the Fifth Circuit followed the very language of the Lanham Act. Exxon's Interlocking X Design and related marks are federally registered marks (R. at 951-948). Under the Lanham Act, abandonment of a federally registered mark can occur in only two ways: (1) actual abandonment by the trademark owner's discontinuing use of the mark with the intent not to resume use; or (2) "[w]hen any course of conduct of the owner,

including acts of omission as well as commission, *causes the mark . . . to lose its significance as a mark.*" 15 U.S.C. § 1127 (1994) (defining abandonment) (emphasis added).[5] Thus, petitioner's congressional intent argument (Pet. at 14), is belied by the fact that the Fifth Circuit expressly followed the exact language of the statute.

Petitioner did not even attempt to introduce evidence on the critical issue specified in the statute. Accordingly, the Fifth Circuit held that petitioner "failed to adduce evidence sufficient to allow a reasonable factfinder to conclude that Exxon has abandoned its marks." (App. A at 23a.) The Fifth Circuit's decision flows directly from the language of the statute, and is an accurate application of that language to the facts of this case.[6]

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[5] It should be noted that the version of the statute quoted to this Court by petitioner is outdated. The present version of the Lanham Act, as amended in 1989, is quoted above. Petitioner's suggestion that loss of significance only need be shown for certain types of abandonment, but not naked licensing, finds no support in the language of § 1127(2). Petitioner's reliance on § 1115(b)(3) and § 1064(3) is equally misplaced. As the Fifth Circuit observed, § 1115(b)(3) refers only to the defense of "unclean hands," which is not at issue here (App. A at 17a n.11), and § 1064(3) deals with certification marks, which are a separate species of marks having no bearing on this case.

[6] In light of the fact that petitioner, when presenting its case to the district court, ignored the express language of the Lanham Act, its suggestion that this Court should remand this case is utterly without merit.

C. The Fifth Circuit's Decision Did Not Depart from Well-Settled Law.

Petitioner's contention that until now, "abandonment has been an irrebuttable presumption" is flatly inaccurate. (Pet. at 5 n.1.) Even the traditional naked licensing cases cited by petitioner do not refer to an irrebuttable presumption. On the contrary, from the language of those cases, one infers the opposite: "licensing without reasonable control *can* work an abandonment," *United States Jaycees v. Philadelphia Jaycees*, 639 F.2d 134, 140 (3d Cir. 1981) (emphasis added); "If the licensor does not maintain adequate quality control, the mark *may* be deemed abandoned." *AmCan Enters., Inc. v. Renzi*, 32 F.3d 233, 235 (7th Cir. 1994) (emphasis added). Moreover, there has never been a case, nor has petitioner cited one, which held that an owner of an incontestable federally registered trademark could lose its rights in the mark by entering into a settlement agreement regarding a third party mark. Accordingly, the Fifth Circuit's decision in no way departs from "well-settled federal law."

On the contrary, the Fifth Circuit's decision is entirely consistent with other cases involving the marks of third party infringers. It has been held in such cases that allowing an infringing use to continue goes to the strength of the plaintiff's mark, as opposed to abandonment. "Evidence of a trademark owner's failure to prosecute infringers is relevant to a determination of the defense of abandonment only where such failure amounts to the mark's losing significance as an indication of source." *Sweetheart Plastics, Inc. v. Detroit Forming, Inc.*, 743 F.2d 1039, 1048 (4th Cir. 1984). The Fifth Circuit thus

was not, as petitioner claims, "confused" when it looked to trademark significance as a factor. Rather, its decision is consistent with cases holding that a trademark owner does not abandon his mark by failing to take action against an infringing third party mark. *See, e.g., Babbit Elecs., Inc. v. Dynascan Corp.*, 38 F.3d 1161, 1180 (11th Cir. 1994) ("The existence of third party infringers . . . does not constitute an abandonment of a mark where the trademark owner does not consent to the use of the mark by these others, but rather, vigorously pursues these third party infringers.") (quoting *Visa Int'l v. Bankcard Holders of Am.*, 211 U.S.P.Q. 28, 41 (N.D. Cal. 1981)). In the agreements cited by petitioner, Exxon did not grant a right to use the challenged marks. On the contrary, the agreements required that use of the marks be *stopped* by a specific date, while allowing time to change to another mark.[7]

The petitioner's analysis of the Fifth Circuit's opinion is highly misleading. Nothing in the opinion "effectively repeals the law against naked licensing." (Pet. at 4.) Indeed, the Fifth Circuit carefully delineated the rules

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[7] Even if one assumes *arguendo* the proposition that the phase out agreements were naked licenses, at most they were licenses of the third parties' marks, not Exxon's marks. Under the circumstances, it is perfectly logical for the statute to require examination of whether Exxon's marks have lost their significance as marks since it is Exxon's marks that are being enforced in the present proceeding, and not the third party marks which are the subject of the agreements that the Fifth Circuit assumed *arguendo* to be licenses.

regarding naked licensing and accurately stated that failure to exercise quality control may result in abandonment of trademark rights. (App. A at 9a-10a.)

Moreover, the Fifth Circuit's decision does not conflict with the decisions of other United States Courts of Appeals. All of the allegedly conflicting cases cited by petitioner involved a party licensing the *use* of its *own* mark; none involved the forced cessation of use of a third party's mark after a phase out period.[8] Thus, no court has reached a result contrary to the Fifth Circuit "on the same important matter." Sup. Ct. R. 10(a). Nor has any court ever held that loss of significance is *not* a factor in the naked licensing analysis. Indeed, several courts have concluded that proof of loss of significance is a necessary part of a successful naked licensing defense. *See United States Jaycees*, 639 F.2d at 138-40 (holding that a party asserting abandonment by naked licensing has a "high burden of proof" and must show that the mark has lost its significance as a trademark); *Board of Governors v.*

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[8] *See, e.g., CNA Fin. Corp. v. Brown*, 922 F. Supp. 567 (M.D. Fla. 1996) (CNAF licensed the use of its service marks "CNAF," "CNA," and "CNA Insurance Companies"); *Dawn Donut Co. v Hart's Food Stores, Inc.*, 267 F.2d 358 (2d Cir. 1959) (plaintiff licensed its marks "Dawn and "Dawn Donut"); *First Interstate Bancorp v. Stenquist*, 16 U.S.P.Q.2d 1704 (N.D. Cal. 1990) (licensed rights to its name "First Interstate Realty"); *Naclox, Inc. v. Lee*, 231 U.S.P.Q. 395 (TTAB 1986) (mark owner allowed uncontrolled use of its "NACLOX" mark); *Stanfield v. Osborne Indus., Inc.*, 52 F.3d 867 (10th Cir.) (license permitted use of 'Stanfield' mark for fifteen years), *cert. denied*, 116 S. Ct. 314 (1995); *Yocum v. Covington*, 216 U.S.P.Q. 210 (TTAB 1982) (petitioner licensed use of its 'PIED PIPERS' mark).

Helpingstine, 714 F. Supp. 167, 171 (M.D.N.C. 1989) (holding that abandonment by uncontrolled licensing requires proof that a mark has lost all significance as an indication of origin). The authors of a leading treatise cited by petitioner concur:

> [I]t seems clear that to prove abandonment [under clause (2)] a showing must be made that to the relevant purchasing public the trademark has ceased to function as a trademark, i.e., it no longer identifies the goods or services or distinguishes them from those sold by others. "Acts of omission" appears to include failure to take the necessary steps to control quality, but *the statutory emphasis is on the mark losing its significance as an indication of origin*. . . .

2 Jerome Gilson & Jeffrey M. Samuels, *Trademark Protection and Practice* § 6.01[6], at 6-25 (1996) (emphasis added).

Finally, the Fifth Circuit's requirement that petitioner demonstrate that Exxon's marks had lost their significance as marks was consistent with its prior precedent which recognized that a stringent burden of proof applies to third parties attempting to show abandonment through naked licensing. *Moore Bus. Forms, Inc. v. Ryu*, 960 F.2d 486, 489 (5th Cir. 1992); *Taco Cabana Int'l, Inc. v. Two Pesos, Inc.*, 932 F.2d 1113, 1121 (5th Cir. 1991), *aff'd*, 505 U.S. 763 (1992); *American Foods, Inc. v. Golden Flake, Inc.*, 312 F.2d 619, 625 (5th Cir. 1963).

The Fifth Circuit correctly applied the Lanham Act to the facts of this case. Its decision is not in conflict with any other United States Court of Appeals. Accordingly, the petition for review should be denied.

III. The Petitioner has not Demonstrated any Compelling Reason to Review this Case.

Petitioner's policy argument is alarmist and unsubstantiated. There is simply no risk that the Fifth Circuit's decision – which followed the statute and case law and was carefully limited to the unique facts of this case – will engender the breakdown of trademark law or result in the demise of the American economy. On the contrary, as the Fifth Circuit observed:

> The alternative to the phase out agreements latent in Oxxford's argument is that Exxon either ignore or immediately and relentlessly litigate with all perceived infringers. . . . [O]ne must wonder whether, given the delays which are part of conventional civil litigation between entrenched corporate opponents, any resultant consumer confusion might well be abated more rapidly than under the phase out agreements.

(App. A at 22a n.13.) Indeed, the irony of Oxxford's argument is that if Exxon had done nothing to stop the use by others of similar marks, it would *not* be presumed to have abandoned its marks. *Sweetheart Plastics*, 743 F.2d at 1048. But now, after Exxon has diligently protected its marks by pursuing apparent infringers, Oxxford asks this Court to presume abandonment and declare Exxon's "family of marks" relinquished. Such a result would not only be inequitable, but also absurd, as the Fifth Circuit aptly noted:

> We, like the district court, would find it wholly anomalous to *presume* a loss of trademark significance merely because Exxon, in the course of

> diligently *protecting* its mark, entered into agreements designed to preserve the distinctiveness and strength of that mark.

(App. A at 21a-22a.)

While Petitioner argues that an automatic forfeiture of trademark rights is needed to protect the public from deception, it ignores the fact that by forcing infringers to cease their use of infringing marks, Exxon engaged in the ultimate protection against consumer deception. Furthermore, it would be next to impossible to engage in a protection program if a trademark owner could not use phase out agreements. As the district court and the Fifth Circuit noted, there is sound public policy support for the use of phase out agreements because the alternative is either relentless, continuous litigation or acquiescence in infringing uses. (App. B at 39a, App. A at 22a n.13.)

Petitioner ultimately urges review of this case because it disagrees with the Fifth Circuit's application of the law to the facts of this case. Because this is not a proper basis for review, petitioner resorts to outlandish speculation about the impact of the Fifth Circuit's opinion. This Court should not be persuaded. The Fifth Circuit's opinion was narrowly tailored and carefully constructed for this particular case, and thus there is no danger that it will be misconstrued. Nothing in petitioner's imagined parade of horribles transforms this unremarkable case into one worthy of this Court's review.

CONCLUSION

The decision of the Fifth Circuit comports with the Lanham Act and with the decisions of the federal courts. There is nothing "special" or "important" under Rule 10 for this Court to consider. The petition for writ of certiorari should be denied.

Respectfully submitted,

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APPENDIX

LIST NAMING ALL PARENT COMPANIES AND NON-WHOLLY-OWNED SUBSIDIARIES (GREATER THAN 5 PERCENT) OF RESPONDENT EXXON CORPORATION, AS REQUIRED BY RULE 29.6 OF THIS COURT.

165550 Canada Limited
172746 Canada Inc.
172965 Canada Limited
2849518 Canada Limited
AAI Assets, Inc.
AFSC Management Limited
AFSC Operations Limited
AGES Arbeitsgemeinschaft Gebuehrenentrichtungssystem GmbH & Co. OHG
AGES Arbeitsgemeinschafts-Gebuehrenentrichtungssystem GmbH
ASHCO Ltd.
Abu Dhabi Petroleum Company Limited
Acquifund Resources Limited
Aditivos Orinoco, C. A.
Adria-Wien Pipeline Gesellschaft mit beschraenkter Haftung
Advanced Elastomer Systems Do Brasil Ltda.
Advanced Elastomer Systems Japan Limited
Advanced Elastomer Systems Limited
Advanced Elastomer Systems Marketing Pte. Ltd.
Advanced Elastomer Systems NV/SA
Advanced Elastomer Systems Singapore Pte. Ltd.
Advanced Elastomer Systems, Canada, Inc.
Advanced Elastomer Systems, Inc.
Advanced Elastomer Systems, L.P.
Air Tankdienst Koeln GbR
Aircraft Fuel Supply B. V.
Al-Jubail Petrochemical Company
Alberta Products Pipe Line Ltd.
Alyeska Pipeline Service Company

Aramco Services Company
Asakawa Sekiyu K.K.
Awaji Gas Nenryo Kabushiki Kaisa
Azerbaijan International Operating Company
Azuma Sekiyu K.K.
BEB Erdgas und Erdoel GmbH, Hannover
BFS Berlin Fuelling Services GbR
BONDY ESSENCE
BRIGITTA Erdgas und Erdoel GmbH, Hannover
Bangkok Aviation Fuel Services Public Company Limited
Banshu Ekika Gas K.K.
Bayerische Erdoelleitung G.m.b.H.
Bitumes Tunis S.A.
Brickwood Holdings Pty. Ltd.
Canada Imperial Oil Limited
Canadian Marine Response Management Corporation
Canadian Reserve Oil & Gas Ltd.
Castle Peak Power Company Limited
CeraMem Separations, Inc.
Cerafilter Systems, Inc.
Cerafilter Systems, L.P.
Changi Airport Fuel Hydrant Installation Pte. Ltd.
Changi Into-Plané Services (Pte) Ltd.
Chuo Sekiyu Hanbai K.K.
Compagnie Industrielle des Polyethylenes de Normandie, GIE (CIPEN)
Compania Minera Disputada de Las Condes S.A.
Comptoir Auxiliaire du Petrole
Computer Centrum Groningen B.V.
Cynthia Gas Gathering Company Limited
DEMICO S.A.R.L.
DFTG Deutsche Fluessigerdgas Terminal GmbH
Daihatsu Sekiyu K.K.
Depot Petrolier du Gresivaudan
Depots Petroliers de la Corse
Depots de Petrole Cotiers
Deudan GmbH & Co. KG

Deudan-Holding GmbH
Deutsche Advanced Elastomer Systems GmbH
Deutsche Erdgas Transport G.m.b.H.
Deutsche Transalpine Oelleitung G.m.b.H.
Devon Estates Limited
Disma S.r.l.
Dixie Pipeline Company
E S F Limited
EPDMCO, L.P.
ETD Tankdienst Gesellschaft Duesseldorf GbR
Eagle Reinsurance Co. Ltd.
East Asia Response Private Limited
East Texas Salt Water Disposal Company
Eastern Canada Response Corporation Ltd.
Eiko Sekiyu K.K.
Elwerath Erdgas und Erdoel GmbH, Hannover
Elwerath-Mobil GbR (NEAG)
Emirates National Chemicals Company Ltd.
Emori Sekiyu K.K.
Emsland-Erdoelleitung G.m.b.H.
Energie Dienstleistungs Wuppertal GbR
Energie Dienstleistungs Wuppertal GmbH
Energie Marketing Service GmbH
Energy Chemicals (Malaysia) Sdn. Bhd.
Enterprise Housing Partners 1992 Limited Partnership
Entrepot Petrolier de Mulhouse (E.P.M.)
Erdgas-Verkaufs-Gesellschaft m.b.H.
Erdgasgemeinschaft GbR
Erdoel-Raffinerie Deurag-Nerag GmbH
Esso (Overseas) Pension Trust Limited
Esso (Thailand) Public Company Limited
Esso Antilles-Guyane, S. A.
Esso Energie G.I.E.
Esso Exploration and Production Angola Inc.
Esso Exploration and Production Ireland Limited
Esso France S.A.
Esso Lub'Services

Esso Lubrifiants Tunisie S.A.
Esso Malaysia Berhad
Esso Raffinage S.A.F.
Esso Societe Anonyme Francaise
Esso Standard Tunisie S. A.
Esso Technologies et Services (E.T.S.)
Etablissements Cloarec
Exxon Asset Funding Company
Exxon Asset Management Company
Exxon Chemical Asset Management Partnership
Exxon Chemical France
Exxon Chemical Paraffins Limited
Exxon Chemical Polymeres SNC
Exxon Chemical S.A.
Exxon Mobile Bay Limited Partnership
Exxon de Colombia S.A.
F.T. Giken Kabushiki Kaisha
FSF Flughafen Schwechat Flugzeugbetankungs GmbH
Federated Pipe Lines (Northern) Ltd.
Federated Pipe Lines (Western) Ltd.
Federated Pipe Lines Ltd.
Ferngas Nordbayern G.m.b.H.
Ferngas Salzgitter GmbH
Fernkaelte Geschaeftsstadt Nord G.b.R.
Fina Antwerp Olefins N.V.
Flughafen Schwechat Hydranten-Gesellschaft
Fuji Kogyo K.K.
Full Cycle Plastics Pty. Ltd.
G16a (Groep) B.V.
GVOE Gebinde-Verwertungesellschaft der
Mineraloelwirtschaft, mbH
Gasunie Engineering B.V.
Gasunie Warmte/Kracht Emmen B.V.
General Bussan K.K.
General Petrochemical Industries Limited
General Sekiyu K.K.
General Sekiyu Okinawa Hanbai K.K.

General Sekiyu Overseas, Ltd.
General Shipping Co. Ltd.
General Unyu Kabushiki Kaisha
Geogaz Lavera
Ges. fur Mineraloelveredlung und Distribution Rhaesa mbH
Gewerkschaft Brassert Erdoel und Erdgas GmbH
Gewerkschaft Gute Hoffnung Erdgas und Erdoel GmbH
Gewerkschaft Kuechenberg Erdgas und Erdoel GmbH
Glen Park Gas Pipe Line Company Limited
Grande Ecaille Land Company, Inc.
Great Lakes Response Corporation of Canada
Groupement Immobilier Petrolier
Groupement Petrolier Aviation
Groupement Petrolier de Nantes (G.P.N.)
Groupement Petrolier de Saint-Pierre des Corps (G.P.S.P.C.)
Groupement Petrolier de la Cote d'Azur
Groupement Petrolier du Finistere G.I.E.
Groupement Petrolier du Val-de-Marne (G.P.V.M.)
Groupement d'Exploitation du Depot de Reception de Chennevieres (G.E.D.R.C.)
Guam Response Services Ltd.
Hambrecht & Quist Environmental Technology
Hamburger Gaswerke GmbH
Hannoversche Erdoelleitungs-G.m.b.H.
Hanshin Kyowa Sekiyu K.K.
Heinrich Schneider Spedition GmbH
Hiroshima General Gas Juten Kabushiki Kaisha
Hoei Sekiyu K.K.
Hokuyu Sekiyu K. K.
Hong Kong Pumped Storage Development Company, Limited
Hong Kong Response Limited
Houston Regional Monitoring Corporation
Hydranten-Betriebs-Gesellschaft, G.b.R.
Imperial Oil (an Ontario General Partnership)

Imperial Oil Limited
Imperial Oil Resources N.W.T. Limited
Imperial Oil Resources Ventures Limited
Imperial Oil Resources an Alberta limited partnership
Industria Acqua Siracusana S.p.A.
Industry Promotion Enterprises Limited
Iraq Petroleum Company, Limited
Japan Butyl Company Limited
Japan PolyChem Corporation
Jersey Nuclear-Avco Isotopes, Inc.
Jinzhou Jinex Lubricant Additives Co., Ltd.
K. K. Momose Shiojiri Stand
K. K. Toresen
K.K. Aizu General
K.K. Auto
K.K. Daimaru
K.K. Eastern Gas Terminal
K.K. General Gas Butsuryu Kansai
K.K. General Gas Butsuryu Kanto
K.K. General Sekiyu Hanbaisho
K.K. Genet
K.K. Genetech
K.K. Genex
K.K. Heian Sekiyu
K.K. Kyoei Shosha
K.K. Marutaka Sekiyu
K.K. Momose Sekiyu
K.K. Standard Sekiyu Osaka Hatsubaisho
K.K. Tama General
K.K. Uwano Sekiyu Shokai
K/S Statfjord Transport A/S & Co.
KX Industries, L.P.
Kabushiki Kaisha Sankyo Plastics
Kai Tak Refuellers Company Limited
Kansai Chuo Sekiyu K.K.
Kanto Kygnus K.K.
Karlsruhe-Stuttgart Rohrleitung Gesellschaft mbH

Kawasaki Kygnus Sekiyu Hambai Kabushiki Kaisha
Keiyo Sekiyu Hanbai K.K.
Kemcor Australia Pty. Ltd.
Kemcor Elastomers Pty. Ltd.
Kemcor Olefins Ltd.
Kemcor Plastics Pty. Ltd.
Kemcor Resins Pty. Ltd.
Kibo Sekiyu Hanbai K.K.
Kimura Sekiyu Kabushiki Kaisha
Kinwa Sekiyu K.K.
Kobe Standard Sekiyu K. K.
Korea Perchem Company Limited
Kowa Sekiyu K.K.
Kumho E.P. Rubber Co., Ltd.
Kygnus Ekika Gas Kabushiki Kaisha
Kygnus Kosan Kabushiki Kaisha
Kygnus Sekiyu K. K.
Kygnus Sekiyu Seisei Kabushiki Kaisha
Kygnus Trading Kabushiki Kaisha
Kyushu Eagle K.K.
L-Net East K.K.
L-Net West K.K.
L12A (Groep) B.V.
L12B/L15B (Groep) B.V.
L14 (Groep) B.V.
L15A (Groep) B.V.
L2 (Groep) B.V.
L5a (Groep) B.V.
Les Docks des Petroles d'Ambes
Les Emulsions de Feyzin et du Dauphine
Liants Routiers de Bourgogne (L.R.B.)
Liants Routiers de la Vallee de la Lorie (LRVL)
Liants Routiers de la Vallee du Rhin (L.R.V.R.)
Liants Routiers du Gard (L.R.G.)
Lilac Sekiyu Kabushiki Kaisha
Lily Sekiyu K.K.
Lithcon Petroleum International (Bahamas) Inc.

MEGAL FINCO
MEGAL GmbH
Maasvlakte Olie Terminal C.V.
Maasvlakte Olie Terminal N.V.
Magota Sekiyu K.K.
Mainline Pipelines Limited
Malaysian Energy Chemical & Services Sdn Bhd
Manchester Airport Storage and Hydrant Company Limited
Marugo Gas K.K.
McColl-Frontenac Inc.
McColl-Frontenac Petroleum Inc./Petroliere McColl-Frontenac Inc.
Meiji Sekiyu K.K.
Mineraloelraffinerie Oberrhein GmbH & Co. KG
Mineraloelraffinerie Oberrhein Verwaltungs GmbH
Mitake Unso K.K.
Mittelrheinische Erdgas Transport Gesellschaft mit beschrankter Haftung
Mode Wheel Property Limited
Montreal Pipe Line Limited/Les Pipe-Lines Montreal Limitee
Mount Thorley Coal Loading Limited
Multi Tank Card B.V.
Mytex Polymers (General Partnership)
N. V. Nederlandse Gasunie
NAM – K 14 B.V.
NAM – K 15 B.V.
NAM – K 7 B.V.
NAM Pipeline B.V.
NAM-K17 B.V.
NAM/CLOMS – K 8/K 11 B.V.
NAM/CLOMS – L 13 B.V.
NAM/MOBIL M9a B.V.
NETDZ Sinochem – Esso LPG Co. Ltd.
NETRA GmbH
NETRA GmbH Norddeutsche Transversale & Co. KG

NPC Services, Inc.
Nalco/Exxon Chemical Middle East Holdings Inc.
Nalco/Exxon Energy Chemicals Argentina S.A.
Nalco/Exxon Energy Chemicals Brasil LTDA.
Nalco/Exxon Energy Chemicals Canada, Inc.
Nalco/Exxon Energy Chemicals Colombia S.A.
Nalco/Exxon Energy Chemicals Ltd.
Nalco/Exxon Energy Chemicals Marketing Ltd.
Nalco/Exxon Energy Chemicals Venezuela, C.A.
Nalco/Exxon Energy Chemicals, Inc.
Nalco/Exxon Energy Chemicals, L.P.
EDE China LLC
Esso Sinochem (Ningbo) Petroleum & Petrochemicals Supply Co. Ltd.
Imperial Oil Resources Limited
Nansei Oil Terminal K.K.
Nansei Sekiyu Kabushiki Kaisha
Nanseki Kaihatsu K.K.
Near East Development Corporation
Nederlandse Aardolie Maatschappij B. V.
New Cure, Inc.
Newcastle Coal Shippers Pty. Limited
Nichiei Kogyo Kabushiki Kaisha
Niedersaechsische Energie Agentur GmbH
Nikko Sangyo K.K.
Nippon Unicar K.K.
Nissei Sekiyu Kabushiki Kaisha
Nogat B.V.
Norddeutsche Erdgas-Aufbereitungs G.m.b.H.
Nordrheinische Erdgas Transport Gesellschaft mit beschrankter Haftung
Noroxo
Northward Developments Ltd.
OSLO Alberta Limited
Office Prive d'Assurances et de Courtages (O.P.A.C.)
Oil Field Chemicals Company (Saudi Arabia) Ltd.
Oil Spill Holdings Private Limited

Oil Spill Response Limited
Oldenburgische Erdoel Gesellschaft m.b.H.
Osaka General Gas K.K.
Osaka Kygnus K.K.
Oslo Lufthavns Tankanlegg AS
P.A.C. S.A.R.L. (Pinson-Allegret-Causse)
Pacesetter Enterprises Limited
Pars Investment Corporation
Plantation Pipe Line Company
Port-Jerome Gas (P. J. Gaz)
Portland Pipe Line Corporation
Primaeroel GmbH
Prince William Sound Oil Spill Response Corporation
ProGas Limited
Projectbureau W/K B.V.
Q16a (Groep) B.V.
Quadrant Gas Limited
Raffinerie du Midi S.A.R.L.
Rainbow Pipe Line Company, Ltd.
Redwater Water Disposal Company Limited
Refineria Petrolera Acajutla, S. A.
Rexplas Sdn Bhd
Rheingas Erdgasleitungs-Gesellschaft m.b.H.
Rotterdam Antwerpen Pijpleiding (Belgie) N.V.
Rotterdam Antwerpen Pijpleiding C.V.
Rotterdam-Antwerpen Pijpleiding (Nederland) N.V.
Rubiatec Sendirian Berhad
Ruhrgas Aktiengesellschaft
S.A. du Pipeline a Produits Petroliers sur Territoire Geneve (SAPPRO)
SEAG Aktiengesellschaft fuer schweizerisches Erdoel
SERAM S.p.A.
Saba Sociedade Abastecedora de Aeronaves Lda.
Saitama Sekiyu Hanbai K.K.
Sanyo Sekiyu K.K.
Saraco S. A.
Saudi Arabian Lube Additives Company Limited

Schubert KG
Senboku Oil Kikoh K.K.
Service Aviation Paris (S.A.P.)
Shehtah Drilling Limited
Shimizu LNG K. K.
Shimoyama Sekiyu K.K.
Shin-Nihon Yukagaku Kogyo K. K.
Shinohara Oil K.K.
Singapore Aromatics Company Private
Smiley Gas Conservation Limited
Sociedad Nacional de Oleoductos Ltda.
Sociedad de Inversiones de Aviacion Limitada
Societa Italiana per l'Oleodotto Transalpino S.p.A.
Societa per Azioni Raffineria Padana Olii Minerali – SARPOM
Societe Anonyme "Produits Lubrifiants de Madagascar" – PROLUMA S.A.
Societe Anonyme de Gestion de Stocks de Securite (SAGESS)
Societe Anonyme de la Raffinerie des Antilles
Societe Civile de Mustapha Algerie
Societe Civile de Participation pour la Destruction des Dechets Industriels
Societe Esso de Recherches et d'Exploitation Petrolieres Esso Rep
Societe Francaise EXXON CHEMICAL
Societe Groupement des Commercants du Centre Commercial Regional de Velizy 2
Societe Havraise de Manutention de Produits Petroliers
Societe Malgache de Raffinage
Societe Paris-Niel
Societe Reunionnaise d'Entreposage
Societe d'Etude et d'Exploitation de la Raffinerie du Tchad – S.E.E.R.A.T.
Societe d'Exploitation & de Developpement d'Operations Commerciales

Societe de Manutention de Carburants Aviation (S. M. C. A.)
Societe de Promotion et de Financement Touristique (CARTHAGO)
Societe de la Raffinerie d'Alger
Societe des Pipe-Lines de Strasbourg
Societe des Transports Petroliers par Pipe Line
Societe du Caoutchouc Butyl (SOCABU)
Societe du Pipe Line de la Raffinerie de Lorraine
Societe du Pipe-Line Mediterranee-Rhone
Societe du Pipeline Sud-Europeen
Southern Natural Gas Development Pty. Ltd.
Sriracha Power Company Ltd.
Standard Kaihatsu K.K.
Standard Service K.K.
Stansted Fuelling Company Limited
Statfjord Transport A/S
Sucre Gas, S.A.
Sueddeutsche Erdgas Transport Gesellschaft mit beschrankter Haftung
Sun East (Dublin) Company, Ltd.
Syncrude Canada Ltd.
TAR-Tankanlage Ruemlang AG
TBF Tanklager Betriebsfuehrungsgesellschaft m.b.H.
TBG Tanklager-Betriebsgesellschaft mbH
TBN Tanklager-Betriebsgesellschaft Nuernberg mbH
TCA Plastics Inc.
TEAM Terminal B.V.
TGF Tankdienst Gesellschaft Frankfurt G.b.R.
TGM Tankdienst-Gesellschaft Muenchen GbR
TIBA Speditions GmbH
TLS Tanklager Stuttgart GmbH
Taichung Petroleum Inc.
Taihei Bussan K.K.
Taisei Kogyo Sekiyu Hanbai K.K.
Taketsuru Yugyo K.K.
Tankanlage A. G., Melligen

Tanklager Altishausen A. G.
Tanklager Taegerschen AG
Tanklager-Gesellschaft Tegel G.b.R.
Tanklagergesellschaft, Koeln-Bonn G.b.R.
Telasto Folien GmbH
Terminal Petrolier de Bordeaux (T.P.B.)
Thai Aliphatics Company Limited
Thai C-Center Company Limited
Thai Petroleum Pipeline Co., Ltd.
Thyssengas G.m.b.H.
Tohpren Co., Ltd. (Chemical)
Tojo Gas K.K.
Tokai Chuo Sekiyu K.K.
Toko Sekiyu K.K.
Tonen Chemical Nasu Co., Ltd.
Tonen Energy International Corp.
Tonen Energy and Marine (Singapore) Pte. Ltd.
Tonen Filare Co. Ltd.
Tonen Film Company Limited
Tonen Kabushiki Kaisha
Tonen Kagaku K.K.
Tonen Sogo Service Co., Ltd.
Tonen System Plaza Kabushiki Kaisha
Tonen System Service Kabushiki Kaisha
Tonen Tanker Kabushiki Kaisha
Tonen Tapyrus Company Limited
Tonen Technology K. K.
Tonex Company Limited
Towa Compounding Co., Ltd.
Toyoshina Film Company, Ltd.
Trans-Northern Pipelines Inc.
Transalpine Oelleitung in Oesterreich Gesellschaft m.b.H.
Tsurumaru Unyu K.K.
Turbo Fuelling Services GbR
UBAG – Unterflurbetankungsanlage Flughafen Zurich
Ulan Coal Mines Limited
United Industry Development Co., Ltd.

Van Salt Water Disposal Company
Verbundnetz Gas AG
Westdeutsche Erdoelleitungs-G.m.b.H.
Western Canada Marine Response Corporation
Westgas G.m.b.H.
Worex S.N.C.
Yasaka Sekiyu K.K.
Yellowstone Pipe Line Company
Yoshimi Gas Kabushiki Kaisha
Yuai Sekiyu K.K.
Zenon Environmental Systems Inc. (ZESI)